

HOUSE BILL 1426

J3, C3

9lr0195

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health)**

Rules suspended

Introduced and read first time: March 7, 2019

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 11, 2019

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2019

CHAPTER _____

1 AN ACT concerning

2 **Health Services Cost Review Commission – Duties and Reports – Revisions**

3 FOR the purpose of altering the information required to be included in a certain annual
4 report required to be submitted to certain persons by the Health Services Cost
5 Review Commission; altering a certain reporting date; repealing certain provisions
6 of law rendered obsolete by certain provisions of this Act; authorizing the
7 Commission, on request by the Secretary of Health, to assist in the implementation
8 of certain model programs; making technical changes; defining a certain term; and
9 generally relating to the Health Services Cost Review Commission.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 19–201, 19–207(b), and 19–219(c)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2018 Supplement)

15 BY repealing
16 Article – Health – General
17 Section 19–214(e)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Insurance
3 Section 15–604
4 Annotated Code of Maryland
5 (2017 Replacement Volume and 2018 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 19–201.

10 (a) In this subtitle the following words have the meanings indicated.

11 **(B) “ALL-PAYER MODEL CONTRACT” MEANS THE PAYMENT MODEL**
12 **DEMONSTRATION AGREEMENT AUTHORIZED UNDER § 1115A OF THE SOCIAL**
13 **SECURITY ACT, INCLUDING ANY AMENDMENTS TO THE AGREEMENT, BETWEEN THE**
14 **STATE AND THE FEDERAL CENTER FOR MEDICARE AND MEDICAID INNOVATION.**

15 **[(b)] (C)** “Commission” means the State Health Services Cost Review
16 Commission.

17 **[(c)] (D)** “Facility” means, whether operated for a profit or not:

18 (1) Any hospital; or

19 (2) Any related institution.

20 **[(d)] (E)** (1) “Hospital services” means:

21 (i) Inpatient hospital services as enumerated in Medicare
22 Regulation 42 C.F.R. § 409.10, as amended;

23 (ii) Emergency services, including services provided at a
24 freestanding medical facility licensed under Subtitle 3A of this title;

25 (iii) Outpatient services provided at a hospital;

26 (iv) Outpatient services, as specified by the Commission in
27 regulation, provided at a freestanding medical facility licensed under Subtitle 3A of this
28 title that has received:

29 1. A certificate of need under § 19–120(o)(1) of this title; or

30 2. An exemption from obtaining a certificate of need under §

1 19–120(o)(3) of this title; and

2 (v) Identified physician services for which a facility has
3 Commission–approved rates on June 30, 1985.

4 (2) “Hospital services” includes a hospital outpatient service:

5 (i) Of a hospital that, on or before June 1, 2015, is under a merged
6 asset hospital system;

7 (ii) That is designated as a part of another hospital under the same
8 merged asset hospital system to make it possible for the hospital outpatient service to
9 participate in the 340B Program under the federal Public Health Service Act; and

10 (iii) That complies with all federal requirements for the 340B
11 Program and applicable provisions of 42 C.F.R. § 413.65.

12 (3) “Hospital services” does not include:

13 (i) Outpatient renal dialysis services; or

14 (ii) Outpatient services provided at a limited service hospital as
15 defined in § 19–301 of this title, except for emergency services.

16 **[(e)] (F)** (1) “Related institution” means an institution that is licensed by the
17 Department as:

18 (i) A comprehensive care facility that is currently regulated by the
19 Commission; or

20 (ii) An intermediate care facility–intellectual disability.

21 (2) “Related institution” includes any institution in paragraph (1) of this
22 subsection, as reclassified from time to time by law.

23 19–207.

24 (b) In addition to the duties set forth elsewhere in this subtitle, the Commission
25 shall:

26 (1) Adopt rules and regulations that relate to its meetings, minutes, and
27 transactions;

28 (2) Keep minutes of each meeting;

29 (3) Prepare annually a budget proposal that includes the estimated income
30 of the Commission and proposed expenses for its administration and operation;

1 (4) Within a reasonable time after the end of each facility's fiscal year or
 2 more often as the Commission determines, prepare from the information filed with the
 3 Commission any summary, compilation, or other supplementary report that will advance
 4 the purposes of this subtitle;

5 (5) Periodically participate in or do analyses and studies that relate to:

6 (i) Health care costs;

7 (ii) The financial status of any facility; or

8 (iii) Any other appropriate matter;

9 (6) On or before [October] **MAY** 1 of each year, submit to the Governor, to
 10 the Secretary, and, subject to § 2-1246 of the State Government Article, to the General
 11 Assembly an annual report on the operations and activities of the Commission during the
 12 preceding fiscal year, including:

13 (i) A copy of each summary, compilation, and supplementary report
 14 required by this subtitle;

15 (ii) Budget information regarding the Health Services Cost Review
 16 Commission Fund, including:

17 1. Any balance remaining in the Fund at the end of the
 18 previous fiscal year; and

19 2. The percentage of the total annual costs of the
 20 Commission that is represented by the balance remaining in the Fund at the end of the
 21 previous fiscal year;

22 (iii) A summary of the Commission's role in hospital quality of care
 23 activities, including information about the status of any pay for performance initiatives;
 24 [and]

25 (iv) Any other fact, suggestion, or policy recommendation that the
 26 Commission considers necessary; **AND**

27 **(V) AN UPDATE ON THE STATUS OF THE STATE'S COMPLIANCE**
 28 **WITH THE PROVISIONS OF THE CURRENT ALL-PAYER MODEL CONTRACT,**
 29 **INCLUDING:**

30 **1. PERFORMANCE IN LIMITING INPATIENT AND**
 31 **OUTPATIENT HOSPITAL PER CAPITA COST GROWTH FOR ALL PAYERS ~~TO A TREND~~**
 32 **~~BASED ON THE STATE'S 10-YEAR COMPOUND ANNUAL GROSS STATE PRODUCT;~~**

1 **2. ANNUAL PROGRESS TOWARD ACHIEVING THE**
2 **STATE'S FINANCIAL TARGETS ESTABLISHED BY THE CURRENT ALL-PAYER MODEL**
3 **CONTRACT;**

4 **3. A SUMMARY OF THE WORK CONDUCTED,**
5 **RECOMMENDATIONS MADE, AND COMMISSION ACTION ON ACTIVITIES RELATED TO,**
6 **AND RECOMMENDATIONS MADE BY, WORKGROUPS CREATED TO PROVIDE**
7 **TECHNICAL INPUT AND ADVICE ON THE ALL-PAYER MODEL CONTRACT;**

8 **4. ACTIONS APPROVED AND CONSIDERED BY THE**
9 **COMMISSION TO PROMOTE ALTERNATIVE METHODS OF RATE DETERMINATION AND**
10 **PAYMENT OF AN EXPERIMENTAL NATURE, AS AUTHORIZED UNDER § 19-219(C)(2)**
11 **OF THIS SUBTITLE;**

12 **5. REPORTS SUBMITTED TO THE FEDERAL CENTER FOR**
13 **MEDICARE AND MEDICAID INNOVATION RELATING TO THE ALL-PAYER MODEL**
14 **CONTRACT; AND**

15 **6. ANY KNOWN ADVERSE CONSEQUENCES THAT**
16 **IMPLEMENTING THE ALL-PAYER MODEL CONTRACT HAS HAD ON THE STATE,**
17 **INCLUDING CHANGES OR INDICATIONS OF CHANGES TO QUALITY OF OR ACCESS TO**
18 **CARE, AND THE ACTIONS THE COMMISSION HAS TAKEN TO ADDRESS AND MITIGATE**
19 **THE CONSEQUENCES;**

20 (7) Oversee and administer the Maryland Trauma Physician Services
21 Fund in conjunction with the Maryland Health Care Commission; **AND**

22 [(8) In consultation with the Maryland Health Care Commission, annually
23 publish each acute care hospital's severity-adjusted average charge per case for the 15 most
24 common inpatient diagnosis-related groups;

25 (9) Beginning October 1, 2014, and, subject to item (10)(ii) of this
26 subsection, every 6 months thereafter, submit to the Governor, the Secretary, and, subject
27 to § 2-1246 of the State Government Article, the General Assembly an update on the status
28 of the State's compliance with the provisions of Maryland's all-payer model contract,
29 including:

30 (i) The State's:

31 1. Performance in limiting inpatient and outpatient hospital
32 per capita cost growth for all payers to a trend based on the State's 10-year compound
33 annual gross State product;

34 2. Progress toward achieving aggregate savings in Medicare

1 spending in the State equal to or greater than \$330,000,000 over the 5 years of the contract,
 2 based on lower increases in the cost per Medicare beneficiary;

3 3. Performance in shifting from a per–case rate system to a
 4 population–based revenue system, with at least 80% of hospital revenue shifted to global
 5 budgeting;

6 4. Performance in reducing the hospital readmission rate
 7 among Medicare beneficiaries to the national average; and

8 5. Progress toward achieving a cumulative reduction in the
 9 State hospital–acquired conditions of 30% over the 5 years of the contract;

10 (ii) A summary of the work conducted, recommendations made, and
 11 Commission action on recommendations made by the following groups created to provide
 12 technical input and advice on implementation of Maryland’s total cost of care model
 13 contract:

14 1. Payment Models Workgroup;

15 2. Physician Alignment and Engagement Workgroup;

16 3. Performance Measurement Workgroup;

17 4. Data and Infrastructure Workgroup;

18 5. HSCRC Advisory Council; and

19 6. Any other workgroups created for this purpose;

20 (iii) Actions approved and considered by the Commission to promote
 21 alternative methods of rate determination and payment of an experimental nature, as
 22 authorized under § 19–219(c)(2) of this subtitle;

23 (iv) Reports submitted to the federal Center for Medicare and
 24 Medicaid Innovation relating to the all–payer model contract; and

25 (v) Any known adverse consequences that implementing the
 26 all–payer model contract has had on the State, including changes or indications of changes
 27 to quality or access to care, and the actions the Commission has taken to address and
 28 mitigate the consequences; and]

29 **[(10)] (8)** If the Centers for Medicare and Medicaid Services issues a
 30 warning notice related to a “triggering event” as described in the all–payer model contract:

31 (i) Provide written notification to the Governor, the Secretary, and,
 32 subject to § 2–1246 of the State Government Article, the General Assembly within 15 days

1 after the issuance of the notice; and

2 (ii) Submit the update required under item [(9)] (6)(V) of this
3 subsection every 3 months.

4 19–214.

5 [(e) On or before January 1 each year, the Commission shall report to the
6 Governor and, in accordance with § 2–1246 of the State Government Article, the General
7 Assembly the following information:

8 (1) The aggregate reduction in hospital uncompensated care realized from
9 the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly
10 of the 2007 Special Session and Public Law No. 111–148 (The Patient Protection and
11 Affordable Care Act); and

12 (2) The number of individuals who enrolled in Medicaid as a result of the
13 change in eligibility standards under § 15–103(a)(2)(ix) and (x) of this article and the
14 expenses associated with the utilization of hospital inpatient care by these individuals.]

15 19–219.

16 (c) Consistent with Maryland’s all–payer model contract approved by the federal
17 Center for Medicare and Medicaid Innovation, and notwithstanding any other provision of
18 this subtitle, the Commission may:

19 (1) Establish hospital rate levels and rate increases in the aggregate or on
20 a hospital–specific basis; [and]

21 (2) Promote and approve alternative methods of rate determination and
22 payment of an experimental nature for the duration of the all–payer model contract; AND

23 **(3) ON REQUEST BY THE SECRETARY, ASSIST IN THE**
24 **IMPLEMENTATION OF FEDERALLY APPROVED MODEL PROGRAMS CONSISTENT WITH**
25 **THE CURRENT ALL–PAYER MODEL CONTRACT.**

26 **Article – Insurance**

27 15–604.

28 Each authorized insurer, nonprofit health service plan, and fraternal benefit society,
29 and each managed care organization that is authorized to receive Medicaid prepaid
30 capitation payments under Title 15, Subtitle 1 of the Health – General Article, shall:

31 (1) pay hospitals for hospital services rendered on the basis of the rate
32 approved by the Health Services Cost Review Commission; and

1 (2) comply with the applicable terms and conditions of Maryland's
2 all-payer model contract [approved by the federal Center for Medicare and Medicaid
3 Innovation], **AS DEFINED IN § 19-201(B) OF THE HEALTH – GENERAL ARTICLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.